HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.585 OF 2007

Between:

Smt. M.Paravartha Vardhanamma and another

. . .Appellants

AND

The Land Acquisition Officer & RDO,
Kovvur, West Godavari District and others

. . .Respondents

:: JUDGMENT ::

Counsel for the appellants : Shri P.Balaji Varma

24th July, 2007

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PER G.S.SINGHVI, CJ

This is an appeal for setting aside order dated 08.03.2007 passed by the learned Single Judge in Writ Petition No.4716 of 2007 whereby he declined to interfere with the acquisition proceedings initiated by the respondents and proceedings dated 23.01.2007 issued by Joint Collector, West Godavari District, Eluru.

A perusal of the record shows that for the purpose of implementing the policy of the State Government to provide house-sites to people belonging to the weaker sections under the 'Indiramma Scheme', the respondents acquired various parcels of land including Ac.1-80 cts. land belonging to the appellants situated in Revenue Survey No.52/4 etc., Penumantra Garuvu Village, Penumantra Mandal, West Godavari District. After issue of notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), an enquiry was conducted under Section 5-A by Revenue Divisional Officer-cum-Land Acquisition Officer, Kovvur (respondent No.1 herein). Finally, the Joint Collector issued proceedings dated 23.1.2007 with the approval of District Collector, West Godavari, Eluru whereby he rejected the objections submitted by the appellants.

Learned counsel for the appellants submitted that he had specifically argued before the learned Single Judge that respondent No.1 did not have the jurisdiction to hold enquiry under Section 5-A of the Act and that the so-called opportunity of hearing given to his clients was an empty formality inasmuch as the report which was made basis for acquisition of the land was not made available to them, but the same have not been considered by the learned Single Judge. He invited our attention to paragraph 9 of the affidavit filed in support of

the writ petition and ground No.6 of the memorandum of appeal to substantiate his argument.

In our opinion, it is not possible to entertain the submission of the learned counsel because the order under challenge does not show that the aforementioned grounds had been urged before the learned Single Judge during the course of hearing. If the learned counsel had argued the points and the same have not been considered by the learned Single Judge, then the only remedy available to the appellants is to seek review of the order under challenge by filing appropriate application under Article 226 of the Constitution read with Order 47 Rule 1 of the Code of Civil Procedure.

With the above observation, the appeal is dismissed leaving the appellants free to apply for review of the order under challenge.

As a sequel to dismissal of the main appeal, WAMP No.1160 of 2007 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, CJ

24th July, 2007

C.V.NAGARJUNA REDDY, J

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